

107TH CONGRESS  
1ST SESSION

# S. 622

To amend titles V, XVIII, and XIX of the Social Security Act to promote tobacco cessation under the medicare program, the medicaid program, and maternal and child health services block grant program.

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## IN THE SENATE OF THE UNITED STATES

MARCH 27, 2001

Mr. DURBIN (for himself, Mr. BROWNBACK, Mr. GRAHAM, and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend titles V, XVIII, and XIX of the Social Security Act to promote tobacco cessation under the medicare program, the medicaid program, and maternal and child health services block grant program.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Medicare, Medicaid,  
5       and MCH Tobacco Cessation Promotion Act of 2001”.

1 **SEC. 2. MEDICARE COVERAGE OF COUNSELING FOR CES-**  
 2 **SATION OF TOBACCO USE.**

3 (a) **COVERAGE.**—Section 1861(s)(2) of the Social Se-  
 4 curity Act (42 U.S.C. 1395x(s)(2)), as amended by section  
 5 105(a) of the Medicare, Medicaid, and SCHIP Benefits  
 6 Improvement and Protection Act of 2000 (as enacted into  
 7 law by section 1(a)(6) of Public Law 106–554), is  
 8 amended—

9 (1) in subparagraph (U), by striking “and” at  
 10 the end;

11 (2) in subparagraph (V), by inserting “and” at  
 12 the end; and

13 (3) by adding at the end the following new sub-  
 14 paragraph:

15 “(W) counseling for cessation of tobacco use (as  
 16 defined in subsection (ww));”.

17 (b) **SERVICES DESCRIBED.**—Section 1861 of the So-  
 18 cial Security Act (42 U.S.C. 1395x), as amended by sec-  
 19 tion 105(b) of the Medicare, Medicaid, and SCHIP Bene-  
 20 fits Improvement and Protection Act of 2000 (as enacted  
 21 into law by section 1(a)(6) of Public Law 106–554), is  
 22 amended by adding at the end the following new sub-  
 23 section:

24 “Counseling for Cessation of Tobacco Use

25 “(ww) The term ‘counseling for cessation of tobacco  
 26 use’ means the following:

1           “(1)(A) Counseling for cessation of tobacco use  
2 for individuals who have a history of tobacco use.

3           “(B) For purposes of subparagraph (A), the  
4 term ‘counseling for cessation of tobacco use’ means  
5 diagnostic, therapy, and counseling services for ces-  
6 sation of tobacco use which are furnished—

7                   “(i) by or under the supervision of a physi-  
8 cian; or

9                   “(ii) by any other health care professional  
10 who is legally authorized to furnish such serv-  
11 ices under State law (or the State regulatory  
12 mechanism provided by State law) of the State  
13 in which the services are furnished,

14 as would otherwise be covered if furnished by a phy-  
15 sician or as an incident to a physician’s professional  
16 service.

17           “(C) The term ‘counseling for cessation of to-  
18 bacco use’ does not include coverage for drugs or  
19 biologicals that are not otherwise covered under this  
20 title.”.

21           (c) PAYMENT AND ELIMINATION OF COST-SHARING  
22 FOR COUNSELING FOR CESSATION OF TOBACCO USE.—

23                   (1) PAYMENT AND ELIMINATION OF COINSUR-  
24 ANCE.—Section 1833(a)(1) of the Social Security  
25 Act (42 U.S.C. 1395l(a)(1)), as amended by section

1 223(c) of the Medicare, Medicaid, and SCHIP Bene-  
2 fits Improvement and Protection Act of 2000 (as en-  
3 acted into law by section 1(a)(6) of Public Law 106-  
4 554), is amended—

5 (A) by striking “and” before “(U)”; and

6 (B) by inserting before the semicolon at  
7 the end the following: “, and (V) with respect  
8 to counseling for cessation of tobacco use (as  
9 defined in section 1861(ww)), the amount paid  
10 shall be 100 percent of the lesser of the actual  
11 charge for the service or the amount determined  
12 by a fee schedule established by the Secretary  
13 for each service”.

14 (2) ELIMINATION OF COINSURANCE IN OUT-  
15 PATIENT HOSPITAL SETTINGS.—The third sentence  
16 of section 1866(a)(2)(A) of the Social Security Act  
17 (42 U.S.C. 1395cc(a)(2)(A)) is amended by insert-  
18 ing after “1861(s)(10)(A)” the following: “, with re-  
19 spect to counseling for cessation of tobacco use (as  
20 defined in section 1861(ww)),”.

21 (3) ELIMINATION OF DEDUCTIBLE.—The first  
22 sentence of section 1833(b) of the Social Security  
23 Act (42 U.S.C. 1395l(b)) is amended—

24 (A) by striking “and” before “(6)”; and

1 (B) by inserting before the period the fol-  
2 lowing: “, and (7) such deductible shall not  
3 apply with respect to counseling for cessation of  
4 tobacco use (as defined in section 1861(wv))”.

5 (d) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to services furnished on or after  
7 the date that is 1 year after the date of enactment of this  
8 Act.

9 **SEC. 3. PROMOTING CESSATION OF TOBACCO USE UNDER**  
10 **THE MEDICAID PROGRAM.**

11 (a) DROPPING EXCEPTION FROM MEDICAID PRE-  
12 SCRIPTIION DRUG COVERAGE FOR TOBACCO CESSATION  
13 MEDICATIONS.—Section 1927(d)(2) of the Social Security  
14 Act (42 U.S.C. 1396r–8(d)(2)) is amended—

15 (1) by striking subparagraph (E);

16 (2) by redesignating subparagraphs (F)  
17 through (J) as subparagraphs (E) through (I), re-  
18 spectively; and

19 (3) in subparagraph (F) (as redesignated by  
20 paragraph (2)), by inserting before the period at the  
21 end the following: “except agents approved by the  
22 Food and Drug Administration for purposes of pro-  
23 moting, and when used to promote, tobacco ces-  
24 sation”.

1 (b) REQUIRING COVERAGE OF TOBACCO CESSATION  
2 COUNSELING SERVICES FOR PREGNANT WOMEN.—Sec-  
3 tion 1902(e)(5) of the Social Security Act (42 U.S.C.  
4 1396a(e)(5)) is amended by adding at the end the fol-  
5 lowing new sentence: “Such medical assistance shall in-  
6 clude counseling for cessation of tobacco use (as defined  
7 in section 1861(ww)).”.

8 (c) REMOVAL OF COST-SHARING FOR TOBACCO CES-  
9 SATION COUNSELING SERVICES FOR PREGNANT  
10 WOMEN.—Section 1916 of the Social Security Act (42  
11 U.S.C. 1396o) is amended, in each of subsections  
12 (a)(2)(B) and (b)(2)(B), by inserting “, and counseling  
13 for cessation of tobacco use (as defined in section  
14 1861(ww))” after “complicate the pregnancy”.

15 (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to services furnished on or after  
17 the date that is 1 year after the date of enactment of this  
18 Act.

19 **SEC. 4. PROMOTING CESSATION OF TOBACCO USE UNDER**  
20 **THE MATERNAL AND CHILD HEALTH SERV-**  
21 **ICES BLOCK GRANT PROGRAM.**

22 (a) QUALITY MATERNAL AND CHILD HEALTH SERV-  
23 ICES INCLUDES TOBACCO CESSATION COUNSELING AND  
24 MEDICATIONS.—Section 501 of the Social Security Act

1 (42 U.S.C. 701) is amended by adding at the end the fol-  
2 lowing new subsection:

3       “(c) For purposes of this title, the term ‘maternal  
4 and child health services’ includes counseling for cessation  
5 of tobacco use (as defined in section 1861(ww)), any drug  
6 or biological used to promote tobacco cessation, and any  
7 health promotion counseling that includes an antitobacco  
8 use message.”.

9       (b) **EFFECTIVE DATE.**—The amendment made by  
10 subsection (a) shall take effect on the date that is 1 year  
11 after the date of enactment of this Act.

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